

REMARKS

Applicant has carefully reviewed the Final Office Action of October 5, 2005 and offers the following remarks to accompany the above amendments.

Before addressing the rejections, Applicant provides a brief summary of the present invention so that the remarks relating to the references are considered in the proper context. The present invention is designed to facilitate operation of a backup call server. In particular, a packet-based network has two call servers. The primary call server handles the bulk of the call processing, but may be subject to the occasional failure. When a failure occurs, call processing shifts to the backup call server. For the backup call server to be aware of currently existing call flows, the backup call server sends requests to media gateways about active connections. The media gateways respond to these requests with information about the active connections. In short, the backup call server proactively secures information about the active connections rather than rely on the active call server sending the information to the backup call server.

Applicant herein amends claims 1, 12-15, 21, and 22 to recite that the call server is a backup call server. Support for this amendment can be found in original claim 23. No new matter is added, and, since the subject matter has previously been searched, no new issue is presented which would necessitate a new search. Applicant requests entry of these amendments after final as it simplifies issues.

Claim 8 is amended to make it more coherent. No new matter is added.

Claims 1, 6-15, 17-20, and 22 were rejected under 35 U.S.C. § 103 as being unpatentable over Chong et al. (hereinafter "Chong") in view of Galloway. Applicant respectfully traverses. The Patent Office must consider a reference for all that it teaches and is not free to pick and choose elements from within the reference. MPEP § 2143.01. If a combination changes the principle of operation of one of the references, then the combination is non-obvious. MPEP § 2143.01. For the Patent Office to establish *prima facie* obviousness, the Patent Office must show where each and every element of the claim is taught or suggested in the combination of references. MPEP § 2143.03.

Claim 1 recites "sending a request, from the backup call server, to a media gateway. . . and receiving said information at the backup call server." These actions by the backup call server are not taught or suggested by the combination of references. Specifically, Chong clearly indicates that Chong's active server sends information about active calls to the backup call server

(see *inter alia* Chong's Abstract and col. 4, lines 28-36). Chong never teaches the backup call server sending a request for information or receiving the requested information.

Galloway teaches a method of monitoring communication connections temporarily established between respective pairs of entities (see Galloway, col. 1, lines 58-60), but makes no reference to a backup or standby call server. Thus, Galloway does not teach the backup call server sending a request for information about an active connection and receiving the requested information. Thus, the references individually do not teach the claim element. Since the references individually do not teach or suggest the claim element, the combination cannot teach or suggest the claim element. Since the combination does not teach or suggest the claim element, the combination does not establish obviousness, and claim 1 is allowable.

If the references are combined, the combination results in an active call server monitoring active connections. Further, the combination, because of the teachings of Chong, requires that the active server sends the call information to the backup call server. The Patent Office is not free to ignore this portion of Chong. MPEP § 2143.01. However, having the active server send the information to the backup server is not what is claimed. Since the combination does not teach the claim element of the backup call server sending the request, the combination does not establish obviousness.

Applicant further traverses the rejection because the combination of references changes the principle of operation of Chong. Specifically, Chong explicitly indicates that the active call server sends call information to the standby call server. The Patent Office asserts that the combination of Chong and Galloway has the backup call server sending requests. Since Chong already has a mechanism to deliver information to the backup call server, this change to the combination changes Chong's principle of operation, and thus, the combination is non-obvious.

Claims 6-11 depend from claim 1 and are non-obvious at least for the same reasons.

Claim 12, as amended, recites a backup call server sending a request and receiving requested information at the backup call server. As explained above, the combination of Chong and Galloway does not teach the backup call server sending the request and receiving the information. Thus, claim 12 is non-obvious at least for the same reasons.

Claim 13, as amended, likewise recites sending a request from the backup call server and receiving said information at the backup call server. As explained above, the combination of

Chong and Galloway does not teach the backup call server sending the request and receiving the information. Thus, claim 13 is non-obvious at least for the same reasons.

Claim 14, as amended, likewise recites sending a request from the backup call server and receiving said information at the backup call server. As explained above, the combination of Chong and Galloway does not teach the backup call server sending the request and receiving the information. Thus, claim 14 is non-obvious at least for the same reasons.

Claim 15, as amended, likewise recites receiving a request from the backup call server and sending said information to the backup call server. As explained above, the combination of Chong and Galloway does not teach the backup call server making the request or sending the information to the backup call server in this manner. Thus, claim 15 is non-obvious at least for the same reasons.

Claims 17-20 depend from claim 15 and are non-obvious at least for the same reasons.

Claim 22, as amended, likewise recites receiving a request from the backup call server and sending said information to the backup call server. As explained above, the combination of Chong and Galloway does not teach the backup call server making the request or sending the information to the backup call server in this manner. Thus, claim 22 is non-obvious at least for the same reasons.

Claims 2-5 and 16 were rejected under 35 U.S.C. § 103 as being unpatentable over Chong in view of Galloway further in view of what would have been obvious to one of ordinary skill in the art at the time the invention was made. Applicant respectfully traverses. The standards for establishing obviousness are set forth above.

Claims 2-5 and 16 depend from claims 1 and 15 respectively. The Patent Office relies on Aravamudan et al. (hereinafter "Aravamudan") to show that the various protocols are known, but Aravamudan does not show a backup call server sending the request and receiving the information or receiving the request from the backup call server and transmitting the information to the backup call server, as recited in the claims. As explained above, the combination of Chong and Galloway does not teach these elements either. Thus, the combination of Chong, Galloway, and Aravamudan does not teach or suggest the claim element. Since the combination does not teach or suggest the claim element, the combination does not establish obviousness, and claims 2-5 and 16 are allowable.

Claims 21 and 23 were rejected under 35 U.S.C. § 103 as being unpatentable over Arango et al. (hereinafter "Arango") in view of the already combined teachings of Chong and Galloway as applied to claims 1, 12-15, and 22 above. Applicant respectfully traverses. The standards for establishing obviousness are set forth above.

Claim 21 recites receiving from a backup call server a request for information and transmitting information to the backup call server. Claim 23 recites that the backup call server sends a request to the media gateway and receives the information. The Patent Office asserts that the combined teachings of Chong and Galloway show the backup call server requesting and receiving information from the gateway (Final Office Action of October 5, 2005, page 8, lines 13-14). However, as explained above, the combination of Chong and Galloway teaches no such thing. Applicant notes that claim 23 is not amended, and thus, the claim element in question has been squarely before the Patent Office for three Office Actions, but the Patent Office has yet to explain how the combination of Chong and Galloway teaches a backup call server that requests information from the media gateways. Since the combination of Chong and Galloway does not teach or suggest the claim element, and the addition of Arango does not cure this deficiency, the combination of the three references cannot teach or suggest the claim element. Since the combination does not teach or suggest the claim element, the combination does not establish obviousness, and claims 21 and 23 are allowable.

Applicant requests reconsideration of the rejections in light of the amendments and remarks presented herein. Applicant earnestly solicits claim allowance at the Examiner's earliest convenience.

Respectfully submitted,

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